

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3168 OF 2006

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Dated: 20-02-2006

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Between

S. Rajamma, W/o. Puspa Bala,
R/o. Door No.III-169-E-12,
Gollapalle Ring Road, B.K. Palle,
Madanapalle, Chittoor District.

...PETITIONER

AND

The Commissioner, Madanapalle
Municipal Corporation, Madanapalle
Town, Chittoor District.

...RESPONDENT

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the respondent in demolishing the front portion of the existing building Door No.III-169-E-1-2, situated Gollapalle Ring Road, B.K. Palle, Madanapalle, Chittoor District as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the absolute owner of the aforementioned premises having acquired the same vide Registered Gift Settlement Deed dated 13.08.1993 and since then she has been in possession and enjoyment of the said property. The learned counsel further submits that the petitioner obtained sanction from the respondent in the month of August 1999 for construction of first floor on the existing ground

floor and accordingly constructed the building strictly as per the sanction plan. While so, the respondent issued a notice dated 02.02.2006 alleging that the petitioner occupied the municipal road to an extent of

$\frac{4.30+0.50}{2} \times \frac{10.00+9.20}{2} = 23.04$ Sq. meters situated at Gollapalle Ring Road. He further submits that the measurements of the building of the petitioner violating the plan sanctioned have not been given and in fact, the petitioner has not encroached any area of the municipal road. He further submits that the petitioner has also made a representation dated 03.02.2006 before the District Collector marking copy to the respondent.

Having regard to the facts and circumstances of the case and as the impugned notice dated 02.02.2006 does not give any opportunity to the petitioner to make a representation, the respondent is directed to treat the impugned notice dated 02.02.2006 as a show cause notice permitting the petitioner to file a representation/explanation within one week from the date of receipt of a copy of this order and on such a representation/explanation being filed, the respondent is directed to consider the same and pass a reasoned order. Till then status quo obtaining as on today shall be maintained.

The writ petition is accordingly disposed of.

V. ESWARAI AH, J

February 20, 2006

Note: Furnish C.C. of the order by 21.02.2006

(B/O)

DSK